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Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding. Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

#### List of Subjects in 47 CFR Part 73

Television, Television broadcasting.

For the reasons discussed in the preamble, the Federal Communications Commission proposes to amend 47 CFR part 73 as follows:

#### PART 73—RADIO BROADCAST SERVICES

1. The authority citation for part 73 continues to read as follows:

**Authority:** 47 U.S.C. 154, 303, 334, 336.

##### § 73.622(i) [Amended]

2. Section 73.622(i), the Post-Transition Table of DTV Allotments under Minnesota, is amended by adding DTV channel \*23 and removing DTV channel \*26 at St. Paul.

Federal Communications Commission.

**Clay C. Pendarvis,**

*Associate Chief, Video Division, Media Bureau.*

[FR Doc. E9-13056 Filed 6-3-09; 8:45 am]

**BILLING CODE 6712-01-P**

#### DEPARTMENT OF COMMERCE

##### National Oceanic and Atmospheric Administration

##### 50 CFR Part 622

RIN 0648-AW12

##### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Snapper-Grouper Fishery off the Southern Atlantic States; Amendment 15B

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of availability of fishery management plan amendment; request for comments.

**SUMMARY:** The South Atlantic Fishery Management Council (Council) has submitted Amendment 15B to the Fishery Management Plan for the Snapper-Grouper Fishery of the South Atlantic Region (FMP) for review, approval, and implementation by NMFS. Amendment 15B proposes actions to require a private recreational vessel that fishes in the exclusive economic zone (EEZ), if selected by NMFS, to maintain and submit fishing records; require a vessel that fishes in the EEZ, if selected by NMFS, to carry an observer and install an electronic logbook (ELB) and/or video monitor provided by NMFS; prohibit the sale of snapper-grouper harvested under the bag limits by a vessel for which a Federal charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, regardless of where the snapper-grouper were harvested; require an owner and operator of a vessel for which a commercial or charter vessel/headboat permit has been issued and that has on board any hook-and-line gear to comply with sea turtle and smalltooth sawfish release protocols, possess on board specific gear to ensure proper release of such species that are incidentally caught; expand the allowable transfer of a commercial vessel permit under the limited access program and extend the allowable period for renewal of such a permit. Amendment 15B also proposes to revise the stock status determination criteria for golden tilefish and specify commercial/recreational allocations for snowy grouper and red porgy. The intended effects of this amendment are to provide additional information for, and otherwise improve the effective management of, the South Atlantic snapper-grouper fishery; minimize the impacts on incidentally caught

threatened and endangered sea turtles and smalltooth sawfish.

**DATES:** Comments must be received no later than 5 p.m., eastern time, on August 3, 2009.

**ADDRESSES:** You may submit comments, identified by "0648-AW12", by any of the following methods:

- Electronic Submissions: Submit all electronic public comments via the Federal e-Rulemaking Portal <http://www.regulations.gov>.
- Fax: 727-824-5308, Attn: Kate Michie.

- Mail: Kate Michie, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

NMFS will accept anonymous comments. Enter "N/A" in the required fields if you wish to remain anonymous. Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Requests for copies of Amendment 15B, which includes an environmental impact statement, a regulatory impact review, a regulatory flexibility analysis, and a fishery impact statement, should be sent to the South Atlantic Fishery Management Council, 4055 Faber Place, Suite 201, North Charleston, SC 29405; telephone 843-571-4366; fax 843-769-4520; e-mail [safmc@safmc.net](mailto:safmc@safmc.net).

**FOR FURTHER INFORMATION CONTACT:** Kate Michie, telephone: 727-824-5305; fax: 727-824-5308.

#### SUPPLEMENTARY INFORMATION:

##### Background

The South Atlantic snapper-grouper fishery is managed under the FMP. The FMP was prepared by the Council and implemented by NMFS under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

##### *Specifying Allocations for Snowy Grouper and Red Porgy*

In order to ensure the adverse socioeconomic impacts of ending overfishing and rebuilding overfished stocks are fairly and equitably distributed, the Council is specifying allocations between the commercial and

recreational sectors for snowy grouper and red porgy. An allocation for snowy grouper and red porgy is needed to divide the future allowable harvest as designated by the rebuilding trajectory between commercial and recreational sectors. Without the designation of an allocation, the Council is unable to identify the allowable catch in either sector.

#### *Updating Management Reference Points for Golden Tilefish*

A recent stock assessment of golden tilefish has provided numerical values for benchmarks, including optimum yield (OY) and minimum stock size threshold (MSST). The OY redefinition is more consistent with National Standard 1 of the Magnuson-Stevens Act, which states conservation and management measures shall prevent overfishing while achieving, on a continuing basis, the OY for each fishery for the United States fishing industry. The MSST redefinition for golden tilefish is set at a level that establishes a more appropriate difference between an overfished condition and the rebuilding goal.

#### *Modification of Snapper-grouper Sale Provisions*

Through Amendment 15B the Council would prohibit bag limit sales of snapper-grouper in the South Atlantic in order to address socioeconomic, data quality, and enforcement concerns. Current regulations allow the sale of snapper-grouper taken from the South Atlantic EEZ, up to the allowed bag limit, to be sold to a licensed dealer if the seller possesses a state-issued license to sell fish, whether or not the seller has a commercial vessel permit. Fish harvested and marketed in this manner, whether harvested by for-hire vessels or private anglers, are counted against the commercial quotas, resulting in accelerated quota closure and reducing the amount and value of harvests allocated to the commercial sector. Accelerated closures impose additional economic losses through market disruption and forced alteration of fishing practices, including transfer of effort other resources that may be less valuable and/or more expensive to catch. The effects of this situation are exacerbated by the current reduced commercial quotas. In addition, such fish are also counted against the recreational allocations, thus complicating fishery assessments. Accordingly, this rule would prohibit the sale of South Atlantic snapper-grouper harvested in the EEZ and possessed under the bag limits. The prohibition would apply not only to a

person fishing from a private recreational vessel but also to a person fishing from a vessel operating as a charter vessel or headboat even if such charter vessel/headboat has a commercial vessel permit. In addition, this rule would prohibit the sale of snapper-grouper harvested under the bag limits by a vessel for which a Federal charter vessel/headboat permit for South Atlantic snapper-grouper has been issued, regardless of where the snapper-grouper were harvested, i.e., in state or Federal waters.

#### *Improvements to Bycatch Monitoring*

The Council also addresses bycatch issues in the snapper-grouper fishery in Amendment 15B. A significant number of snapper-grouper are released by fishermen, often resulting in incidental mortality of bycatch. Biologically, such bycatch mortality may constitute a significant portion of the mortality for many species and cause ecological changes to the environment in the form of altered predator-prey relationships. Therefore, the Council is seeking to implement a long-term, standardized monitoring and assessment program through the expansion of the existing requirement for fishing reports to include such private recreational vessels as are selected by the Science and Research Director, Southeast Fisheries Science Center, NMFS (SRD). Other actions aimed at improving bycatch monitoring include a requirement for an owner and operator of a vessel with a commercial vessel or charter vessel/headboat permit for South Atlantic snapper-grouper and an owner and operator of a private recreational vessel in that fishery, if selected by the SRD, to carry a NMFS-approved observer on trips selected by the SRD and/or participate in a NMFS sponsored ELB video monitoring reporting program as directed by the SRD. Video monitoring hardware and software could provide a cost-effective and reliable system of monitoring bycatch, release mortality, handling of fish, and other shipboard practices. Pertinent data collected by a video electronic monitoring system would include species caught, number of hooks, location, depth, date, time, and disposition of released organisms. NMFS would also rely on state corporation, specifically funded projects, and the Atlantic Coastal Cooperative Statistics Program's Release, Discard, and Protected Species Module, as the module is implemented.

#### *Reduce Bycatch Mortality of ESA Listed Species*

On June 7, 2006, NMFS completed a formal Section 7 consultation under the

Endangered Species Act on the South Atlantic snapper-grouper fishery. The biological opinion stated the vertical line and bottom longline gear used in the snapper-grouper fishery were likely to adversely affect threatened and endangered sea turtles and smalltooth sawfish, via entanglement, hooking, and/or forced submergence. One of the terms and conditions to implement a reasonable and prudent measure established under the biological opinion, requires NMFS, in cooperation with the Council, to implement sea turtle bycatch release equipment requirements, and sea turtle and smalltooth sawfish handling protocols and/or guidelines in the permitted commercial and for-hire snapper-grouper fishery. Therefore, this amendment would require a vessel for which a commercial or charter vessel/headboat permit has been issued for South Atlantic snapper-grouper to possess a document provided by NMFS titled, "Careful Release Protocols for Sea Turtle Release With Minimal Injury;" post the sea turtle handling and release guidelines placard provided by NMFS on the vessel; have sea turtle release gear on board; and follow specified release handling measures for a sea turtle or smalltooth sawfish that is caught incidentally.

#### *Permit Renewal and Transferability Requirement Modifications*

In Amendment 15B the Council has also included measures to address permit renewal and transferability issues. Currently, South Atlantic commercial snapper-grouper permits must be renewed within 60 days of the date they expire. The Council believes the 60-day requirement is overly restrictive and presents an unnecessary hardship to fishery participants. As a result, the Council is considering extending the commercial snapper-grouper permit renewal deadline to one year. Additionally, current regulations state that a transferable commercial vessel permit issued under the limited access program may be transferred only to an immediate family member of the holder. An "immediate family member" is specified as a husband, wife, son, daughter, brother, sister, mother, or father. This restriction has precluded owners of individually owned vessels from changing to corporate ownership and the realization of the associated benefits. Accordingly, Amendment 15B proposes to allow transfer to a corporation, provided the shareholders of the corporation are limited to the original permit holder and/or his/her immediate family members. Subsequent

additional shareholders would be limited to immediate family members.

The Council has submitted Amendment 15B for Secretarial review, approval, and implementation. NMFS' decision to approve, partially approve, or disapprove Amendment 15B will be based, in part, on consideration of comments, recommendations, and information received during the comment period on this notice of availability. After consideration of these factors, and consistency with the Magnuson-Stevens Act and other applicable laws, NMFS will publish a final rule in the **Federal Register** announcing the Agency's decision to approve, partially approve, or disapprove Amendment 15B, and the associated rationale. If approved, the provisions of Amendment 15B would be specified in regulations.

Public comments received by 5 p.m. eastern time, on August 3, 2009, will be considered by NMFS in the approval/disapproval decision regarding Amendment 15B.

**Authority:** 16 U.S.C. 1801 *et seq.*

Dated: May 29, 2009.

**Kristen C. Koch,**

*Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.*

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## DEPARTMENT OF COMMERCE

### National Oceanic and Atmospheric Administration

#### 50 CFR Part 622

**RIN 0648-AS65**

#### Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Aquaculture

**AGENCY:** National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

**ACTION:** Notice of Availability of the Fishery Management Plan for Regulating Offshore Marine Aquaculture in the Gulf of Mexico (FMP); request for comments.

**SUMMARY:** The Gulf of Mexico Fishery Management Council (Council) has submitted the FMP for review, approval, and implementation by NMFS. The FMP is intended to establish a comprehensive permitting and regulatory framework to manage the development of an environmentally sound and economically sustainable aquaculture industry in the Gulf of

Mexico exclusive economic zone (EEZ). The FMP would establish application and permit requirements, aquaculture operational requirements and restrictions, siting requirements and conditions, and recordkeeping and reporting requirements; specify allowable aquaculture species; provide for evaluation and approval/disapproval of proposed aquaculture systems (e.g., cages or net pens); establish restricted access zones around aquaculture facilities; and establish a regulatory framework for modifying certain aquaculture-related management measures consistent with the provisions of the FMP. In addition, the FMP would establish biological reference points and status determination criteria specific to aquaculture in the EEZ.

**DATES:** Comments must be received no later than 5 p.m., eastern time, on August 3, 2009.

**ADDRESSES:** You may submit comments on the proposed rule, identified by "0648-AS65", by any one of the following methods:

- **Electronic Submissions:** Submit all electronic public comments via the Federal eRulemaking Portal <http://www.regulations.gov>.
- **Mail:** Jess Beck, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

Instructions: All comments received are a part of the public record and will generally be posted to <http://www.regulations.gov> without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

To submit comments through the Federal e-Rulemaking Portal: <http://www.regulations.gov>, enter "NOAA-NMFS-2008-0233" in the keyword search, then check the box labeled "Select to find documents accepting comments or submissions", then select "Send a Comment or Submission." NMFS will accept anonymous comments (enter N/A in the required fields, if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word, Excel, WordPerfect, or Adobe PDF file formats only.

Copies of the FMP may be obtained from the Gulf of Mexico Fishery Management Council, 2203 North Lois Avenue, Suite 1100, Tampa, FL 33607; telephone 813-348-1630; fax 813-348-1711; e-mail: [gulfcouncil@gulfcouncil.org](mailto:gulfcouncil@gulfcouncil.org); or may be downloaded from the Council's website

at <http://www.gulfcouncil.org/>. The FMP includes a Programmatic Environmental Impact Statement (PEIS), an Initial Regulatory Flexibility Analysis, a Regulatory Impact Review, and a Social Impact Assessment/Fishery Impact Statement.

**FOR FURTHER INFORMATION CONTACT:** Jess Beck, telephone: 727-824-5301; fax: 727-824-5320; e-mail: [Jess.Beck@noaa.gov](mailto:Jess.Beck@noaa.gov).

**SUPPLEMENTARY INFORMATION:** The FMP was prepared by the Council and is implemented through regulations at 50 CFR part 622 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

#### Background

Demand for protein is increasing in the United States. Today imports account for over 80 percent of the U.S. seafood consumption. As demand for seafood as protein continues to increase many commercial wild-capture fisheries are being fished at or above sustainable levels and are likely unable to meet such growing demand. Aquaculture of commercially and recreationally important species has been suggested as one method to meet the current and future demands for seafood.

Currently, there is no process for accommodating commercial scale offshore aquaculture in Gulf of Mexico exclusive economic zone, other than live rock aquaculture which is authorized under Amendments 2 and 3 to the Coral and Coral Reefs FMP. NOAA Fisheries Service may issue an exempted fishing permit (EFP) to conduct offshore aquaculture in federal waters; however, an EFP is of limited duration and is not intended for commercial production of fish and shellfish. The Council has submitted the FMP to NMFS for agency review under procedures of the Magnuson-Stevens Act. The purpose of this FMP is to establish a comprehensive permitting and regulatory framework to manage the development of an environmentally sound and economically sustainable aquaculture industry in the EEZ.

The Council chose alternatives that would: establish application and permit requirements, aquaculture operational requirements and restrictions, siting requirements and conditions, and recordkeeping and reporting requirements; specify allowable aquaculture species; provide for evaluation and approval/disapproval of proposed aquaculture systems (e.g., cages or net pens); establish restricted access zones around aquaculture facilities; establish a regulatory